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SERVICE DATE - DECEMBER 18, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 3X)¹

NEW YORK CENTRAL LINES, LLC—ABANDONMENT
EXEMPTION—IN BERKSHIRE COUNTY, MA

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: December 14, 2001

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service for NYC to abandon and CSXT to discontinue service over approximately 1.91 miles of railroad between milepost QBH-0.59 and milepost QBY-2.50 in Pittsfield, Berkshire County, MA. Notice of the exemption was served and published in the Federal Register on August 13, 2001 (66 FR 42582-83). The exemption was scheduled to become effective on September 12, 2001, but on August 27, 2001, Housatonic Railroad Company late-filed a notice of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1) to purchase the entire line.²

On September 17, 2001, Housatonic filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the entire line for \$27,750. Housatonic stated that it had not received the information requested from CSXT and had been informed that the information was unlikely to be available before October 12, 2001. By decision served September 21, 2001, it was determined that Housatonic's OFA would be reviewed after the October 12, 2001 due date for OFAs and CSXT was directed to provide Housatonic with the requested information. On October 2, 2001, CSXT filed a request for a 30-day extension in accordance with 49 CFR 1152.27(c)(2)(ii)(D), to

¹ The notice issued on August 13, 2001, embraced STB Docket No. AB-55 (Sub-No. 595X), CSX Transportation, Inc.—Discontinuance of Service Exemption—in Berkshire County, MA.

² By decision served September 7, 2001, the proceeding was reopened, Housatonic's late-filed notice of intent was accepted, the exemption was made subject to several environmental conditions, the due date for Housatonic to file its OFA was established as September 12, 2001, and the effective of the exemption was automatically stayed until September 22, 2001. On September 6, 2001, Housatonic filed a petition to toll the period for submitting an OFA for 30 days (until October 12, 2001), stating that CSXT had not provided it with the financial data prescribed in 49 CFR 1152.27(a). By decision served September 11, 2001, the time period for Housatonic to file its OFA was extended until October 12, 2001, and the effective date was further postponed until October 22, 2001.

develop and submit the required information requested by Housatonic. By decision served October 9, 2001, the time period for CSXT to provide Housatonic with the requested information was extended to November 12, 2001. By decisions served October 19, 2001, the time period for Housatonic to file its OFA was extended to November 19, 2001, and the effective date of the exemption was further postponed until November 29, 2001. By decision served November 9, 2001, the time period for CSXT to provide Housatonic with the requested information was extended to December 12, 2001, and the time period for Housatonic to file its OFA was extended to December 19, 2001, and the effective date of the exemption was further postponed until December 29, 2001.

By facsimile submitted on December 12, 2001, CSXT states that an appraiser has determined the value of the right-of-way, but that the formal appraisal has not been completed to show how the appraiser arrived at the valuation. CSXT therefore requests a further extension of the due date for it to provide Housatonic with the required valuation information until February 11, 2002. CSXT also indicates that counsel for Housatonic has agreed to the extension.

In view of CSXT's request, the deadline for it to provide the requested information to Housatonic will be extended to February 11, 2002. The due date for OFAs will be extended to February 19, 2002, and the effective date of the exemption will be further extended to March 1, 2002. As ordered in the October 9 decision, CSXT is directed to inform the Board when it has provided the requested information to Housatonic.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. CSXT is directed to provide Housatonic with the requested information by February 11, 2002.
2. The time period for Housatonic to file an OFA is tolled until February 19, 2002.
3. The effective date of the exemption is postponed until March 1, 2002.
4. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary